

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>MICHAEL REEVES, # B-82558,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 14-cv-1092-JPG</b>
	)	
<b>DR. HENDERSON,</b>	)	
<b>DR. NEWBOLD,</b>	)	
<b>and MELISSA J. PHOENIX,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM AND ORDER**

**GILBERT, District Judge:**

This matter is now before the Court on Plaintiff's motion to withdraw severed claim (Doc. 5), filed December 3, 2014. Submitted with the motion and labeled as "Exhibit B" is a copy of Plaintiff's "Response to Memo and Order (Doc. 99, pg. 8, 9)" (Doc. 6, p. 1). "Exhibit A" to the motion (Doc. 6, p. 2) is the Notice of Electronic Filing which shows that Plaintiff's Response was filed on October 16, 2014, as Doc. 100 in *Reeves v. Harrington, et al.*, Case No. 13-cv-1171-JPG-PMF (hereinafter referred to as the "original case").

The instant case was severed from the original case on October 9, 2014 (Doc. 99 in original case; Doc. 2 herein). Plaintiff was given 30 days (until November 10, 2014) to notify the Court if he did not wish to proceed with the instant severed case. Also on October 9, Plaintiff was notified of the new case number for this severed case (14-cv-1092-JPG) and informed of his filing fee obligations (Doc. 3). However, he has never filed any notice or motion under Case No. 14-cv-1092-JPG until now.

The response filed on October 16 in the original case states, "Plaintiff did not ask for a

‘newly-opened case’ and will not pay ‘separate filing fee’” (Doc. 100, in original case). In the instant motion, Plaintiff repeats this statement and adds, “I request this court withdraw the severed claim, this court filed, I did not ask this claim be filed” (Doc. 5).

The Court recognizes that Plaintiff did not ask for a new case to be opened. However, when Plaintiff filed an amended complaint in the original case which contained a claim unrelated to the original action, severance of that unrelated claim (designated by the Court as Count 3) into a separate action was required (see Doc. 2 herein and Docs. 88, 99 in original case).

If Plaintiff had filed his “Response” under the new case number for this severed action, the Court could have addressed this matter much earlier. Nonetheless, the “Response” was filed within the 30-day deadline to voluntarily dismiss this severed case, and the Court accepts this document as Plaintiff’s notice that he does not wish to proceed with this severed action or incur the additional filing fee.

**IT IS THEREFORE ORDERED** that Plaintiff’s motion to withdraw severed claim (Doc. 5) is **GRANTED**. *See* FED. R. CIV. P. 41(a)(1)(A)(i). This action, which consists of the claims designated as **Count 3** (see Doc. 2 herein and Doc. 88 in the original case) against Defendants **HENDERSON, NEWBOLD, and PHOENIX**, is **DISMISSED WITHOUT PREJUDICE**. Plaintiff shall **not** be assessed a filing fee for this severed case.

The Clerk is **DIRECTED** to close this case and enter judgment accordingly.

**IT IS SO ORDERED.**

**DATED: December 8, 2014**

*s/J. Phil Gilbert*  
United States District Judge